

WRITTEN TESTIMONY

Quarterly Update Transportation in Texas

Testimony before the Senate Committee on Transportation and Homeland Security

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Senate Committee on Transportation and Homeland Security

I. Introduction

The Senate Transportation and Homeland Security Committee requested that the Texas Department of Transportation (TxDOT) provide the committee with another quarterly update on matters of significance to the department. This presentation includes the following updates concerning the Texas Department of Transportation: the agency management and organizational review, the agency's efforts to implement provisions of HB 300, other Sunset recommendations not requiring legislation, transportation funding, and an update on the agency's progress related to the American Recovery and Reinvestment Act in Texas.

II. HOV Update

High Occupancy Vehicle (HOV) lanes are one of many strategies that lessen congestion and contribute to improving the quality of air in a metropolitan area. Various challenges exist that determine which design/configuration is the best choice in any given circumstance. It is imperative that proper usage rules be respected. Our goal is to deliver the best solution within the parameters of any given circumstance at the best price for the taxpayer.

At the August 20, 2009 hearing, Chairman Carona and members of the Senate Transportation and Homeland Security Committee asked that TxDOT and Dallas Area Rapid Transit (DART) provide an update on the questions that were raised in regard to pylons that are utilized as part of the HOV lane configuration along US 75, and I-635 between US 75 and I-30 in Dallas. Specifically, questions were raised concerning testimony regarding missing or inadequate pylons.

TxDOT and DART, our transportation partner on HOV lanes, have jointly taken the following steps to address the concerns of the Chairman, committee members and the public.

US 75

- All pylons have been replaced to make the system whole
- Weekly maintenance by TxDOT is being performed
- TxDOT paying 100% of costs (materials and labor to maintain the system)
- DART providing enforcement

I-635 between US 75 and I-30

- All pylons have been replaced to make the system whole
- Weekly maintenance by DART (agreement pending with provisions for TxDOT to take over maintenance if performance measurements are not met)
- Costs (materials and labor to maintain the system) split between DART and TxDOT, 50/50
- DART is contractually responsible to provide enforcement

III. TxDOT Management & Organizational Review Update

The TxDOT management and organization review began immediately following the June 25 commission meeting. The consulting firm of Grant Thornton was selected to conduct the review. Following their selection, Transportation Commission Chair Deirdre Delisi sent a letter on July 1st to the Legislative leadership and copied all members of the legislature notifying them of this review and inviting them to participate in the review process. Direct contact information to Grant Thornton was provided to all members of the legislature.

There have been several steps involved in the management and organization review of TxDOT by Grant Thornton. The first step of the process included scoping interviews and a second round of interviews that included the list of stakeholders. The Grant Thornton team conducted scoping initial interviews with all of the transportation commission members, TxDOT administration, members of the legislature that requested to participate in the review process, and members of the legislature involved in Sunset, finance, and transportation issues concerning the agency. Based on the information received during these interviews, Grant Thornton refined their project plan and developed a complete list of stakeholder interview participants, both internal and external to TxDOT.

Initially, it was estimated that eighty interviews would be conducted. However, as a result of the scoping interviews the estimated list of stakeholders doubled from what was originally estimated in the contract. Approximately 180 stakeholders were identified for an interview. The increase in the amount of interviews that would be needed resulted in a slight increase to the original contract price. Additionally, the initial contract called for implementation plans to be developed for each recommendation. After further discussion with the commission, the commission requested that implementation plans only be developed for recommendations that the commission decides to move forward with.

A second round of interviews was conducted by Grant Thornton that included the list of stakeholders that doubled from what was originally estimated in the contract. This second round of interviews was more formal in nature and contained a list of set questions. At the end of August, the Transportation Commission sent letters to all the individuals on the stakeholder list notifying them about the review encouraging them to participate. Grant Thornton contacted all of the individuals on the stakeholder list in August and September and scheduled interviews. To date, Grant Thornton has completed the vast majority of the 180 stakeholder interviews. In the process, the Grant Thornton team visited the Lubbock, San Antonio, Houston, and Ft. Worth districts and regional support centers.

In addition to these one-on-one interviews, Grant Thornton convened small focus groups and developed and distributed an anonymous survey to all TxDOT employees for input.

The focus of the review included:

- Organizational Structure
- Staffing
- Communications (internal to TxDOT)
- Transparency (to external stakeholders)
- Business Processes

- Detailed Review of Planning
- o High-level functional diagnostic of:
 - Finance/Budget
 - Human Resources
 - Design Process
 - Build Process
 - Information Technology (as it applies to TxDOT)

Grant Thornton reports directly to the Transportation Commission via the Sub-Committee on Transparency, but all the commissioners have had and will continue to have input and interaction with Grant Thornton on a regular basis throughout this entire process. Grant Thornton is also providing updates to the commission each month at commission workshops or meetings.

The all-employee survey was sent out on September 23rd and employees were given a deadline to complete the survey by October 9th. Grant Thornton received 5,610 electronic surveys and 1,170 paper surveys from employees, which was an approximate return rate of fifty percent.

In October, Grant Thornton began to coordinate and schedule internal focus groups and this effort will continue until November. In addition to interviews, focus groups, and survey results, Grant Thornton has been collecting other information and data that includes: previous studies regarding regionalization compiled by TxDOT, reports, and previous TxDOT internal survey results.

Currently, Grant Thornton is in the process of reviewing the work effort involved in conducting a compensation and benefits analysis that will include approximately 48 positions at the executive, district engineer, regional director, division and office director levels. The analysis will look at comparisons with private sector and other transportation organizations, as well as other DOTs.

Recent Modifications to Schedule

The scope of Grants Thornton's review of the agency has been modified. As such, the final due date of the report has been modified as well. Presently we are looking for the final report to be presented early in 2010.

IV. Sunset

TxDOT continues to implement those recommendations from the Sunset Advisory Commission to the Legislature relating to department operations that do not require changes in current law. Since our last update to this committee, we have continued to move forward on several initiatives in our efforts to become a more transparent and accountable agency.

Since the last meeting of this committee, several updates have been made to the TxDOT website, providing users with the ability to interactively examine lists of congested roadways in the state, look up pavement condition ratings and see how the maintenance funds spent in their area will impact their roadways. The tools, which are linked to the department's Project Tracker, were created at the direction of the 81st Texas Legislature through the General Appropriations

Act. More information can be found online at http://www.txdot.gov/project information/default.htm.

Many of our major efforts to implement changes within the department center around what is a complicated transportation planning and project development process and helping to provide the public with a better understanding of how important decisions are made. Although the comprehensive Sunset bill was unable to achieve passage during the regular session, there is no need to wait two years to get moving on good ideas. We feel this initiative can be implemented without legislation and we are diligently working to do just that. The Transportation Commission has been discussing this issue at length during recent workshops and regular meetings.

In relation to the department's planning and project development process, the Sunset Advisory Commission made five recommendations as follows:

1) Redevelop and regularly update the long-range Statewide Transportation Plan describing total system needs, establishing overarching statewide transportation goals, and measuring progress toward those goals.

TxDOT's Transportation Planning and Programming Division continues to evaluate and re-develop the draft of the Statewide Transportation Plan in relation to the recommendations of the Sunset Staff Report. A funding forecast model that clearly outlines funding forecast assumptions for federal and state revenues is under development by TxDOT and the Association of Texas Metropolitan Planning Organizations.

We are working to compile information from the transportation plans of other states to identify an ideal model. Plans have been reviewed from Maryland, Florida, California, New York, Pennsylvania, Virginia, North Carolina, Illinois, and Ohio and we have determined the Maryland approach may be suitable for Texas.

An inventory of the transportation system is being conducted to include not only highways, but aviation, public transportation, rail, water ports, waterways, bicycle/pedestrian facilities and pipelines. TxDOT will examine the performance measures of other states to assist with determining the best method of evaluation.

The Texas Transportation Institute is researching how best to measure "expanding economic opportunity." The department's newly created Strategic Policy and Performance Management section is responsible for continuous measurement, evaluation and public reporting of our progress towards achievement of specific goal objectives.

As discussed in previous hearings, the 2030 Committee was established to conduct an assessment of the state's transportation needs through the year 2030, in the context of today's economic reality. The 2030 Committee completed their assessment and the results will be included in the Statewide Transportation Plan. We estimate this task will be implemented by the end of 2009.

2) Establish a transparent, well-defined, and understandable system of project programming within TxDOT that integrates project milestones, forecasts, and priorities.

Our previously established Uniform Transportation Plan Working Group is continuing their work efforts toward developing a revised project planning and development tool in response to Sunset recommendations. The group is focused on incorporating the following concepts into this new tool:

- o the critical need for reliable TxDOT financial forecasts which are coordinated into the statewide planning and programming documents on a continuing basis;
- o implementation of fiscal constraint into the planning processes; and
- o increased communication, transparency, and accountability.

The Working Group recommends simplifying the Uniform Transportation Plan by not having as many categories of work. In particular, they are looking to the next plan to include multi-modal components, to be financially constrained, and to be based on reliable cash flow forecasts. The group is also focusing on various plans and programs, including:

- o A Vision Plan that incorporates statewide planning perspectives and efforts;
- A Project Development Plan listing of proposed projects with various levels of construction and development authorizations; and
- A Project Program consisting of a specified number of years worth of projects based closely on financial forecasts and other cash flow considerations.

The first Work Group meeting was in mid-February. They continue to meet in a full group, as well as in various sub-groups tasked with producing specific and detailed reports for consideration and discussion by the larger group.

This group will also coordinate with the Transportation Planning and Project Development Rules Advisory Committee which was created by the Transportation Commission this past July. This committee will look at the last version of the HB 300 Conference Committee Report to help develop new comprehensive planning rules.

To that end, TxDOT Administration issued a Texas Register Notice to solicit comments for possible revisions to existing program and rules pertaining to project planning, funding and programming. Comments were due by August 10, 2009 and are currently under review.

With the comments under review and the advisory committee being charged with addressing proposed rule changes for TxDOT's planning, project selection, and funding program; we hope to have new rules before the Transportation Commission by summer of 2010 at the latest.

3) Require TxDOT districts to develop detailed work programs driven by milestones for major projects and other statewide goals for smaller projects.

TxDOT has developed a first-generation Project Development Management System (PDMS) for internal use in tracking project development milestones on projects under development in FY 2009 – FY 2012. Data related to all projects currently under development has been placed into this database by the districts and is available to the public through the Internet site under Project Tracker.

TxDOT is working on the second-generation of PDMS that will utilize Primavera P6 software, a globally recognized program offering easy solutions for prioritizing and planning, for managing highway design projects throughout the department. Primavera P6 software has been

purchased and a consultant team has been contracted with to customize this application for TxDOT use and to train key personnel in the use and management of this system. Primavera P6 implementation is underway and training is nearing completion. Full implementation is anticipated in the fall of 2009. We plan to have this implemented by the end of this year.

4) Require TxDOT, with input from transportation partners and policymakers, to develop a system to measure and report on progress in meeting transportation goals and milestones.

The new TxDOT Project Tracker has been developed with input from our MPO partners. The management and progress reporting tool will continue to be modified and updated based on user comments.

The Transportation Planning and Programming Division met with members of TxDOT Administration to define the scope of measuring progress in meeting goals, attaining major priorities, success in meeting statewide project implementation milestones, and the accuracy of past financial forecasts. We continue to incorporate guidance from the Texas Transportation Commission Subcommittee on Financial Transparency into the report. This is estimated for completion by December 31, 2009.

5) Require TxDOT to establish transportation planning organizations in rural areas of the state.

With rural areas of the state already having the capability to form such organizations under current law, this goal has been completed to the extent possible without additional enabling legislation.

In addition to the efforts mentioned above, the department is also researching the different plans created to look at future needs and how to meet those needs. Some, such as the Metropolitan Transportation Plans, are required by federal law; and others, such as the Texas Transportation Plan, are required by state law. Given the differences of the plans, such as those which must be financially constrained and those with different planning horizons, we are looking at ways to combine these plans for a more uniform, consistent approach to transportation planning across the board.

We believe that with all of these efforts, combined with our continued endeavors to meaningfully engage the public in department activities through Town Halls and public meetings of the Transportation Commission and various advisory committees, we are moving into a new era of providing the citizens of Texas with an agency in which they can openly understand and interact with our daily operations.

V. Vehicle Miles Traveled Tax

In an effort to research alternative transportation funding options, and after our discussion at the August meeting of this committee, the department is exploring vehicle mileage fees as a long-term replacement for the state fuel tax as our current structure is not sustainable in the long term. Increases in fuel efficiency will lead to a diminishing revenue stream which is further impacted by inflating construction costs and other factors, and this option would provide for a more equitable distribution of taxation. The biggest challenge with any alternative chosen

moving forward is to ensure there is a broad public understanding of the current transportation challenge, the lack of reliable funding resources to address our state's needs, and also an understanding of how a vehicle miles traveled program can work without invading a motorist's privacy.

Our staff is in the process of studying what options are available to Texas in relation to a vehicle miles traveled tax. The department currently has an interagency contract with the Texas Transportation Institute, and we are looking to expand the scope of the contract through a technical memorandum to include such a study.

This study will look at the methods by which TxDOT and its partners can continue to explore mileage-based fees as a potential long-term replacement for the fuel tax, building on the momentum gained from the baseline research in Texas, the national symposium held in Austin in April 2009, and the discussions held in consideration of the proposed pilot study legislation through HB 3932, and an amendment to HB 300, 81st Legislature. Texas is considered one of a handful of states leading the research and exploration in this area.

The study will review what possibilities exist for proceeding with a potential demonstration of vehicle mileage fees using a systematic approach for developing policy direction, defining system architecture, and engaging in public dialogue. We are looking to form a policy task force on mileage-based user fees to provide recommendations to the Transportation Commission and Legislature on the guiding principles for developing a new system.

Some of the options developed so far include evaluating long-term transportation funding strategies utilizing the State of Oregon's Road User Fee Task Force as a model. This model includes indexing the fuel tax and restructuring vehicle registration fees in addition to vehicle mileage fees. All of the challenges associated with this program are being carefully analyzed through this work, and we will provide an update to the committee at the next hearing of this committee.

VI. TRANSPORTAION FINANCING

The department is looking to go to contract on roughly \$9.5 billion in construction, mobility, maintenance, and rehabilitation projects in FY 2010 - 11.

The funding resources figuring into this scenario include the following:

State Highway Fund 6, Normal Letting (UTP Categories 1 – 12)	\$3.2 billion
Proposition 12 funds	\$1.9 billion
Proposition 14 funds	\$1.1 billion
American Recovery and Reinvestment Act (Stimulus) funds	\$0.7 billion
Regional Toll Revenue (from SH 121, North Texas)	\$1.5 billion
Concession funds (from SH 130, Central Texas)	\$0.004 billion
CDA/Toll Equity funds	\$1.1 billion

Following is a breakdown of the \$3.2 billion in Fund 6 for FY 2010-11 by project category:

Category 1: Statewide Formula Funding for Preventive Maintenance	\$0.7 billion
Category 1: Statewide Formula Funding for Rehabilitation	\$0.3 billion

Categories 2, 3 and 4: Project Specific Mobility Funding	\$0 billion
Category 5: MPO-Selected Air Quality Projects	\$0.3 billion
Category 6: Project Specific Bridge and Structure Funding	\$0.5 billion
Category 7: MPO-Selected Mobility and Rehabilitation Projects	\$0.4 billion
Category 8: Project Specific Federal Safety Projects	\$0.26 billion
Category 9: Project Specific Transportation Enhancement Projects	\$0.12 billion
Category 10: Project Specific Park Roads and Supplemental Projects	\$0.3 billion
Category 11: Project Specific District Discretionary Projects	\$0.1 billion
Category 12: Project Specific Strategic Priority Projects	\$0 billion*

*At their October 29, 2009 meeting, the Transportation Commission approved \$200 million in projects through the Pass Through Financing Program to be let at the local level and paid for over the life of the project per local agreements through Category 12.

Please note there is a \$200 million contingency fund to address project specific costs growth included in the Fund 6 letting summary figures.

As the department continues to analyze and review the current forecasting and planning process to determine project selection and priorities for the state, we are looking at identifying goals for the planning and programming process. We must identify every dollar, tie every dollar to an expenditure, and maximize our expenditures on meaningful transportation system projects. To start, we are looking at the needs and anticipated revenues for the next 25 years. Using data and information gathered by the 2030 Committee needs and the Metropolitan Planning Organizations (MPO) workgroup revenue resources, we are building a plan to outline the challenge facing Texas.

We are utilizing a TRENDS model to develop this plan, which is the Transportation Revenue Estimator and Needs Determination System. This model allows for rapid, multiple-scenario development based on user input assumptions. This web-based system captures population growth impacts and provides flexibility for evaluating different growth scenarios. It also helps planning experts to consider fuel efficiency impacts, and a range of revenue estimates based on factors such as population growth and miles per gallon for vehicles on the road. This data allows planners to develop a baseline revenue forecast, which is essential when looking at addressing what is available to concentrate on the state's needs.

Using this model, we developed a 10-year cash flow forecast using several assumptions such as a 0.5% increase in the state motor fuels tax in 2010, a 1% increase in state motor fuels tax revenues from 2011-2019, vehicle registration fees growing by 4.5% annually, the use of all available bonding authority, a 5% allowance for inflation, and the mobility and maintenance expenses anticipated during that timeframe to name a few. The result from various scenarios promises few dollars available to mobility projects, estimating anywhere between just over \$2.7 billion and \$4.5 billion for Categories 2, 3 and 4 combined from 2009-2019. During that same timeframe, it is estimated between almost \$6.4 billion and \$12.4 billion will be available for Category 1, Preventative Maintenance and Rehabilitation. When measured out over the course of

10 years, it is clear Fund 6 does not have the capacity to meet the transportation demands of Texas.

The department continues to utilize all tools available to ensure transportation improvements enhance the quality of life, the safety of the traveling public, and the expansion of our flourishing economy for future generations of Texans. Under current law, the following alternative funding methods can be utilized for project development:

- Design-bid-build using public financing
- Public sector pass through finance agreements
- Private sector pass through finance agreements
- Modified private sector pass through finance agreements
- Toll project agreements with a city, county, regional toll authority, regional mobility authority, or local governmental corporation

Realizing our resources are limited, we will continue to work with our elected leaders to determine what alternative options are feasible to continue on a path of meeting the transportation challenge.

VII. ARRA / TIGER Grant Update

The American Recovery and Reinvestment Act (ARRA) was signed by President Barack Obama on February 17, 2009. The purpose of the legislation was to create and sustain jobs in the wake of the economic situation the country is facing. TxDOT, in addition to many other State of Texas agencies, received a significant amount of funding from ARRA. TxDOT worked diligently in February and March to identify how our funding would be allocated. The following report addresses how funding was broken down and where TxDOT is to date on the spending of ARRA dollars:

Highways

Texas share is \$2.25 billion

Funding: ARRA contained \$27.5 billion in formula grants to states for highways and bridges. The highway and bridge total for Texas is \$2,250,015,000. Of that, approximately \$1.68 billion is allocated directly to the Texas Transportation Commission (a minimum of \$175 million of this amount must be spent in rural areas), and approximately \$500 million is directly allocated to the state's Metropolitan Planning Organizations (MPOs), while the remaining \$67.5 million is allocated for transportation enhancement projects (e.g. hike and bike trails).

Use It or Lose It: The first 50 percent of all highway and bridge funding not sub-allocated within the state, approximately \$775 million, had to be obligated within 120 days from the date the states receive their apportionments and the second 50 percent as well as any sub-allocated funding must be obligated within 12 months of that date (March 2, 2010). Texas met the 120-day obligation requirement two weeks before the deadline. **To date Texas has obligated** \$1,432,209,785

Transit

Texas share: \$371,806,104

Note: TxDOT's portion is for disbursement of funds to the rural providers (approximately \$50 million).

Funding: For transit, Texas received \$371,806,104. The urban recipients will receive \$301,055,797, the smaller rural recipients will receive \$42,181,107, and another \$28,569,200 will be available to cities through a high growth and high density state formula. For the rural recipients that brings the total number closer to \$50 million.

Use It or Lose It: The first 50 percent of all transit funding needed to be obligated in 180 days and the second 50 percent must be obligated in 12 months. TxDOT met the 180 day deadline for the rural program and to date has obligated \$50,587,402.

General Aviation

Funding: For aviation, the Federal Aviation Administration received \$1.1 billion nationwide in discretionary funds. Texas and other states were required to apply for these funds on a project specific basis. Based on allocations to date Texas has received funding for 6 projects. The total amount awarded for those projects is a little over \$17 million.

Rail

Texas share is undetermined at this time.

Funding: Amtrak: \$1.3 billion to improve the speed and capacity of intercity passenger rail service. High Speed Rail and Intercity Passenger Rail Grants: \$8 billion to advance the development of high speed rail and to improve the intercity passenger rail service in corridors across the nation.

Use it or Lose It High Speed Rail: Within 60 days of enactment the Secretary of Transportation was required to submit a strategic plan to Congress that described how funds will be used to improve and deploy high speed passenger rail systems. The Department of Transportation has issued it's final rule for application of these funds and **Texas submitted 9** projects for a total of \$1.8 billion. Funding decisions are expected this fall.

Ferry Boats

Texas received \$7.2 million

Funding: Texas received \$7,200,000 of discretionary funding for the construction of a new 28 car ferry vessel for TxDOT's Port Aransas Ferry System in Nueces County.

Transportation Investment Generating Economic Recovery (TIGER) Grants

Estimated Texas share: Undetermined, TxDOT must apply for grants. No state may receive more than \$300 million. Texas submitted approximately 100 projects for consideration.

Funding: Title XII of the Recovery Act appropriates \$1.5 billion nationwide, available through September 30, 2011, for Supplementary Discretionary Grants for a National Surface Transportation System. The Recovery Act required the Secretary of Transportation to publish criteria on which to base the competition for TIGER Grants not later than May 18, 2009.

TIGER Discretionary Grants will be awarded based on the following selection criteria, which incorporate the criteria specified in the Recovery Act:

- **Long-Term Outcomes:** The USDOT will give priority to projects that have a significant impact on desirable long-term outcomes for the nation, a metropolitan area, or a region. The following types of long-term outcomes will be given priority:
- State of Good Repair: Improving the condition of existing transportation facilities and systems, with particular emphasis on projects that minimize life-cycle costs.
- **Economic Competitiveness:** Contributing to the economic competitiveness of the United States over the medium- to long-term.
- **Livability:** Improving the quality of living and working environments and the experience for people in communities across the United States.
- Sustainability: Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions and benefitting the environment.
- Safety: Improving the safety of U.S. transportation facilities and systems.
- Job Creation and Economic Stimulus: Consistent with the purposes of the Recovery
 Act, the USDOT will give priority to projects that are expected to quickly create and
 preserve jobs and stimulate rapid increases in economic activity, particularly jobs and
 activity that benefit economically distressed areas.
- **Innovation:** The USDOT will give priority to projects that use innovative strategies to pursue the long-term outcomes outlined above.
- **Partnership:** The USDOT will give priority to projects that demonstrate strong collaboration among a broad range of participants and/or integration of transportation with other public service efforts.

TIGER Grants shall not be less than \$20 million and not greater than \$300 million; and the Secretary may waive the \$20 million minimum grant size for the purpose of funding significant projects in smaller cities, regions, or States. Not more than 20 percent of the funds available for TIGER Grants may be awarded to projects in a single State. The Federal share of these grants may be up to 100 percent.

As of September 10, 2009, TxDOT has processed over 80 support letters. TxDOT submitted applications for the following 5 projects outside of MPO boundaries that MPOs and other entities could not submit directly, which included:

- 1. I-35 McClennan county
- 2. South Orient
- 3. SH 35 in San Patricio County
- 4. SH 359- Motran La Entrada project

5. U.S. 281 in Comal County

VIII. Rescission

In October 2009, the Texas Department of Transportation was required to return more than \$742 million in project programming authority to the federal government as part of a nationwide \$8.708 billion rescission of highway project programming authority. Although, there have been rescissions in the past, there is less flexibility in this one because of the language included in the Energy Independence and Security Act of 2007 which requires states to reduce each federal spending category by a specific amount. The result is a reduction in Texas' obligation authority and causes TxDOT to award fewer contracts at a time when more transportation funding is needed to improve mobility and enhance economic opportunity.

IX. Conclusion

In conclusion, the Texas Department of Transportation is driven to a higher standard—a standard that includes accountability, open government, ethical practices, and transparency. The current activities and changes at the agency are helping to meet that higher standard. The agency will continue to strive to serve the people of Texas by: reducing congestion, enhancing safety, expanding economic opportunity, improving air quality, and maintaining the value of transportation assets.

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